

OGC-89-50583
16 March 1989

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MEMORANDUM FOR:

[redacted]
Office of Congressional Affairs

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THROUGH:

Chief, Administrative Law Division, OGC

FROM:

[redacted]
Senior Assistant General Counsel for
Personnel Law

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SUBJECT: Summary of "A Bill to Amend Title 5,
United States Code, to Establish an Optional
Early Retirement Program for Federal Government
Employees, and for Other Purposes"

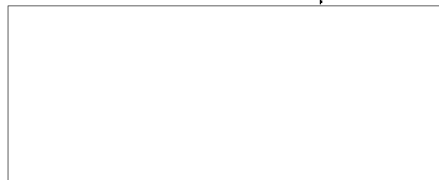
1. You asked us to review a copy of the proposed "Federal Employees' Optional Early Retirement Act" to determine whether its enactment would adversely affect Agency equities. You also asked whether we would like you to monitor its progress.

2. Insofar as we have been provided only a copy of the summary of the subject bill, rather than a copy of the bill itself, we are unable to comment definitively on its provisions. Based on the summary, we suspect that the Office of Personnel and senior Agency management might have concerns regarding the possible loss of experienced employees under the bill, if enacted. The provision authorizing the President to exclude only up to 25% of an agency's otherwise eligible early retirees from taking an "early out", and the general prohibition against replacing early retirees for 5 years (albeit waivable by the President with respect to occupations critical to an agency's missions), would make it difficult to avoid the loss of seasoned personnel. A legislative amendment would be necessary to exempt Agency employees under CSRS and FERS from the coverage of the bill.

3. It would appear from the descriptive title of the legislation that it would not apply directly to CIARDS; we note that some of the age-and-service combinations for which early retirement would be permitted under the bill are already available to CIARDS participants. Even if management wanted all of the bill's early retirement rules to be implemented for

CIARDS, it is uncertain whether an Executive Order under section 292 of the CIARDS statute could be issued to apply those rules to CIARDS, because it is not clear that there is existing conformity between the Civil Service Retirement System and CIARDS in this area. Accordingly, should we be mistaken in our assessment of management's likely position on this bill, and should management wish to have CIARDS be covered as well, then the Agency would need to seek a legislative amendment to that effect, or at a minimum, a clear record in the legislative history that section 292 could be used in that way.

4. Please let us know if this bill shows any real signs of life in this Congress. OP would also be interested if the bill starts to move.



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